



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCO/148462

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 02, 2013, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a hearing was held on April 25, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether MECA correctly determined that Petitioner was overpaid childcare benefits in the amount of \$1071.87 for the period of 2/20/2011 through 3/31/2011.

NOTE: The record was held open to allow Petitioner to submit proof of enrollment in school. Petitioner submitted an unofficial transcript, which has been marked as Exhibit 5 and entered into the record. Ms. Love submitted an e-mail indicating that the agency did not make any adjustments to the overpayment it alleges. The e-mail has been attached to Exhibit 5.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: Keisha Love, Child Care Subsidy Specialist, Senior  
Milwaukee Early Care Administration - MECA  
Department of Children And Families  
1220 W. Vliet St. 2nd Floor, 200 East  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 7, 2013, MECA sent Petitioner a notice indicating that she was overpaid childcare benefits in the amount of \$1071.87, for the period of 2/20/2011 to 3/31/2011. (Exhibit 4, pg. 2)
3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 3, 2013.
4. On February 16, 2011, Petitioner pleaded guilty to and was convicted of Burglary. The court imposed and stayed a four-year sentence consisting of two years of initial confinement and two years of extended supervision. The court placed Petitioner on probation for three years. (Exhibit 4, pgs. 15-17)
5. As a condition of her probation, the court ordered Petitioner to report to jail on March 2, 2011 to serve 60-days of conditional jail time with Huber privileges for child care and school. (Id.)
6. Petitioner did not conduct a job search, nor did she attend W-2 programing between her date of sentencing and when she went into custody, because she was trying to get her affairs in order before she went into custody on March 2, 2012. (Testimony of Petitioner)
7. Petitioner went into custody on or about March 2, 2012 and was released five-days later to the "bracelet" program to serve out her conditional jail time. (Testimony of Petitioner; Exhibit 4, pg. 17.)
8. While serving her conditional jail time, Petitioner did not conduct a job search, because it was not permitted by the court order, nor did she attend W-2 programming. (Id.)
9. Petitioner did attend one, three credit class, Intro to College Writing at MATC. (Testimony of Petitioner; Exhibit 5)

**DISCUSSION**

"Every parent in the family/Assistance Group (AG) must need child care to participate in an approved activity or activities(s)." *Wisconsin Shares Child Care Assistance Manual (CM)* §1.4.8. An "approved activity" as defined by *CM* §1.5.0 is participation in:

1. Learnfare
2. High School
3. Unsubsidized Employment
4. Pre-Job Training
5. Apprenticeships
6. Sheltered Employment
7. Work Study
8. Youth Employment
9. Legitimate Self-employment
10. Wisconsin Works or Tribal TANF Employment Positions
11. Basic Education
12. Technical College or course of study producing employment.

It is the contention of the agency that Petitioner was not engaged in any approved activities during the time in question and was therefore, not eligible for childcare benefits. However, Exhibit 5 shows that during the spring of 2011, Petitioner was attending one class at MATC. As such, she was engaging in an approved activity.

There is insufficient information in the record to establish how many days a week Petitioner attended class, at what time and for how long. As such, this matter must be remanded to the agency for verification of those times and a recalculation of the overpayment amount.

If Petitioner does not agree with the recalculation, she will have to file a NEW request for fair hearing.

I note that while *CM* §1.7.3 places upon the participant, the responsibility of providing verification within seven days, *CM* §1.7.6 states that if the participant is unable to produce the requested verification or requires assistance to do so, the agency must assist the applicant in obtaining the verification. "To do this, the agency may need the applicant's signature on a written release of information to obtain the information from a third party." *CM* §1.7.6 As such, the agency might need to get Petitioner to sign a release of information to obtain the necessary class schedule/ attendance information from the registrar at MATC.

### **CONCLUSIONS OF LAW**

The agency did not meet its burden to prove that it correctly determined that Petitioner was overpaid child care benefits in the amount of \$1071.87 for the period of 2/20/2011 to 3/31/2011.

**THEREFORE, it is**

**ORDERED**

That the agency verify Petitioner's class schedule and recalculate the amount of Petitioner's childcare overpayment. The agency shall take all administrative steps necessary to accomplish these tasks within 17 days of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

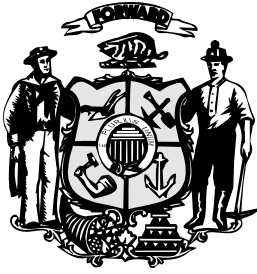
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of May, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 14, 2013.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit  
Child Care Fraud